

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
CORPUS CHRISTI DIVISION**

| | | |
|-------------------------------|---|-------------------|
| ROBERT (STAR) LOCKE; d/b/a FT | § | |
| STAR RANCH, | § | |
| Plaintiff | § | |
| | § | |
| v. | § | C.A. NO. C-05-125 |
| | § | |
| DOTTIE CLOWER, et al. | § | |
| Defendants | § | |

**MEMORANDUM OPINION AND ORDER GRANTING PLAINTIFF'S MOTION
TO STRIKE, FOR A NEW TRIAL, AND FOR A NEW HEARING DATE**

On August 12, 2005, the United States Magistrate Judge filed her Memorandum and Recommendation in this cause (D.E. 12). No objections were filed. Having reviewed *de novo* the Magistrate Judge's memorandum and recommendation and the pleadings on file, this Court hereby adopts as its own the findings and conclusions of the Magistrate Judge.

Accordingly, plaintiff's Motion to Strike, for a New Trial, and for a New Hearing Date (D.E. 10-1, 10-2, 10-3) is conditionally GRANTED. The recommendation for dismissal (D.E. 9) will be withdrawn if (1) plaintiff demonstrates proof via cancelled check or receipt, that he did hire and pay counsel; (2) plaintiff shows proof that he reimbursed defendant Clower's counsel for his time preparing for and attending the July 25, 2005 hearing and preparing and filing the response to plaintiff's motion; and (3) plaintiff files his response to defendant Clower's Federal Rule of Civil Procedure

12(b)(6) Motion to Dismiss (D.E. 7) within twenty days of the date of the Memorandum and Recommendation.

ORDERED this 30 day of Aug, 2005.


HAYDEN HEAD
CHIEF JUDGE